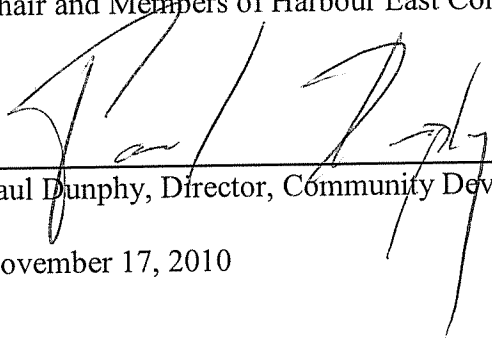


Harbour East Community Council
December 2, 2010

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY: 
Paul Dunphy, Director, Community Development

DATE: November 17, 2010

SUBJECT: Case 16032: Development Agreement -- 613 Main Street, Westphal

SUPPLEMENTARY REPORT

ORIGIN

- Application by Terrain Group Inc., for lands of Madison Realty Limited, to enter into a new development agreement that continues to permit licensed establishments, by replacing the existing development agreements at 613 Main Street, Westphal.
- September 16, 2010 - Harbour East Community Council meeting (Item 8.1.2):

Moved by Councillor Karsten, seconded by Councillor Smith, that Harbour East Community Council approve the proposed development agreement as set out in Attachment A of the staff report dated July 13, 2010, to permit licensed establishments within the existing building at 613 Main Street, Westphal.

RECOMMENDATION

It is recommended that Harbour East Community Council:

1. Discharge, by resolution of Council, the existing development agreements and associated amending agreements as set out in Attachments A, B and C of this report for 613 Main Street, Westphal.

BACKGROUND

The commercial building situated at 613 Main Street contains a number of commercial uses, including drinking establishments which are only permitted within buildings over 10,000 square feet by development agreement. There are three existing development agreements on the property for the former Par-T Golf site, Beazley's Bowling lanes and the former Dooley's. Terrain Group Inc. requested an amendment to the development agreement for the former Par-T Golf site, known now as Soul City, to permit a dance floor and stage as part of a dining room and lounge use. They also requested consolidation of the 3 existing development agreements into a new agreement, approved on September 16, 2010, and discharge of the existing agreements applied to the lands.

DISCUSSION

Staff has reviewed this application relative to all applicable policies of the Cole Harbour/Westphal MPS and determined that the proposal is consistent with all applicable policies of the Cole Harbour/Westphal MPS.

On September 16, 2010 Harbour East Community Council approved the application for a development agreement at 613 Main Street in Westphal. There were no appeals to the Nova Scotia Utility and Review Board. Staff has prepared this supplementary report following signing and registration of the agreement on November 17, 2010, and now Council is in the position of discharging the existing development agreements and associated amending agreements.

Conclusion

The new development agreement that provides for beverage rooms at 613 Main Street has been signed and registered at the Land Registry. Therefore, staff recommend that Harbour East Community Council discharge all existing development agreements and any amending agreements applied to the property as included in Attachments A, B and C to this report. If not approved, the use of the property will be impacted due to the differences between the existing agreements and the new agreement.

BUDGET IMPLICATIONS

There are no budget implications. The Developer will be responsible for all costs, expenses, liabilities, and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the agreement can be carried out within the approved budget with existing resources.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through a Public Information Meeting held on June 14, 2010. No members of the public were in attendance at this meeting. A public hearing was held by Council to consider approval of any applications.

For the Public Information Meeting, notices were posted on the HRM website, in the newspaper and mailed to property owners within the notification area as shown on Map 2. Council held a Public Hearing on this application on September 16, 2010, and in addition to the notice posted on the HRM website and the published newspaper advertisements, property owners within the notification area were notified as shown on Map 2.

The proposed development agreement will potentially impact the following stakeholders: local residents and property owners.

ALTERNATIVES

1. Council may choose to approve the discharge of all existing development agreements and associated amending development agreements. This is the recommended course of action for the reasons outlined above.
2. Council may choose to refuse the discharge of all existing development agreements and associated amending development agreements. Pursuant to the *Halifax Regional Municipality Charter*, Council is required to provide reasons to the applicant justifying this refusal, based on the policies of the Cole Harbour/Westphal Municipal Planning Strategy.

ATTACHMENTS

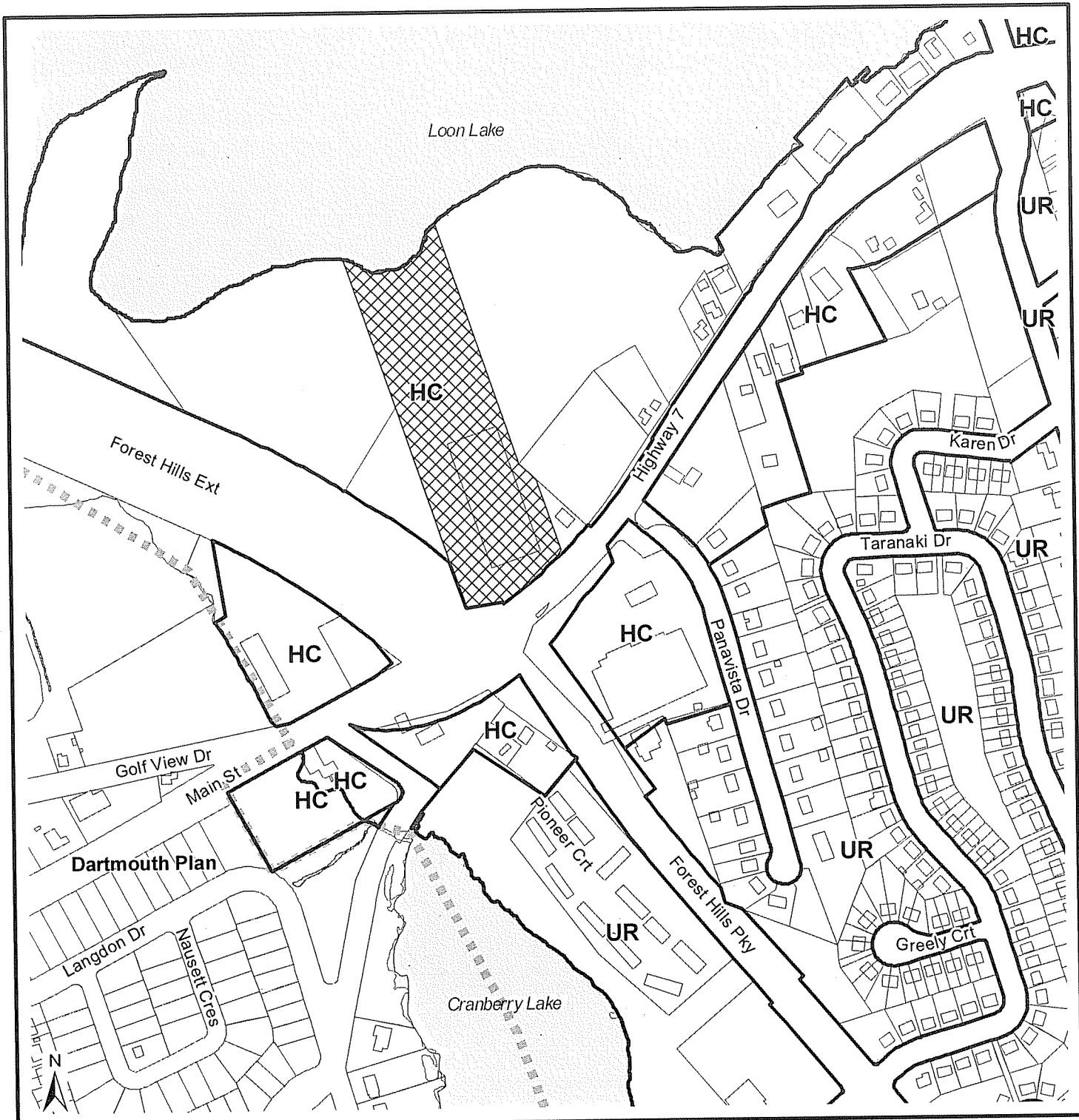
Map 1	Generalized Future Land Use Map
Map 2	Zoning Map
Attachment A	Discharging Agreement (Sandtrap Amusements)
Attachment B	Discharging Agreement (Beazely's Bowling)
Attachment C	Discharging Agreement (Dooley's Loon Lake)

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Darrell Joudrey, Planner 1, 490-4181





Report Approved by: Austin French, Manager, Planning Services, 490-6717



Map 1 - Generalized Future Land Use

613 Main Street

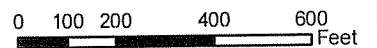
-  Subject Property
-  Plan Area Boundary

Cole Harbour/Westphal Plan Area

Designation

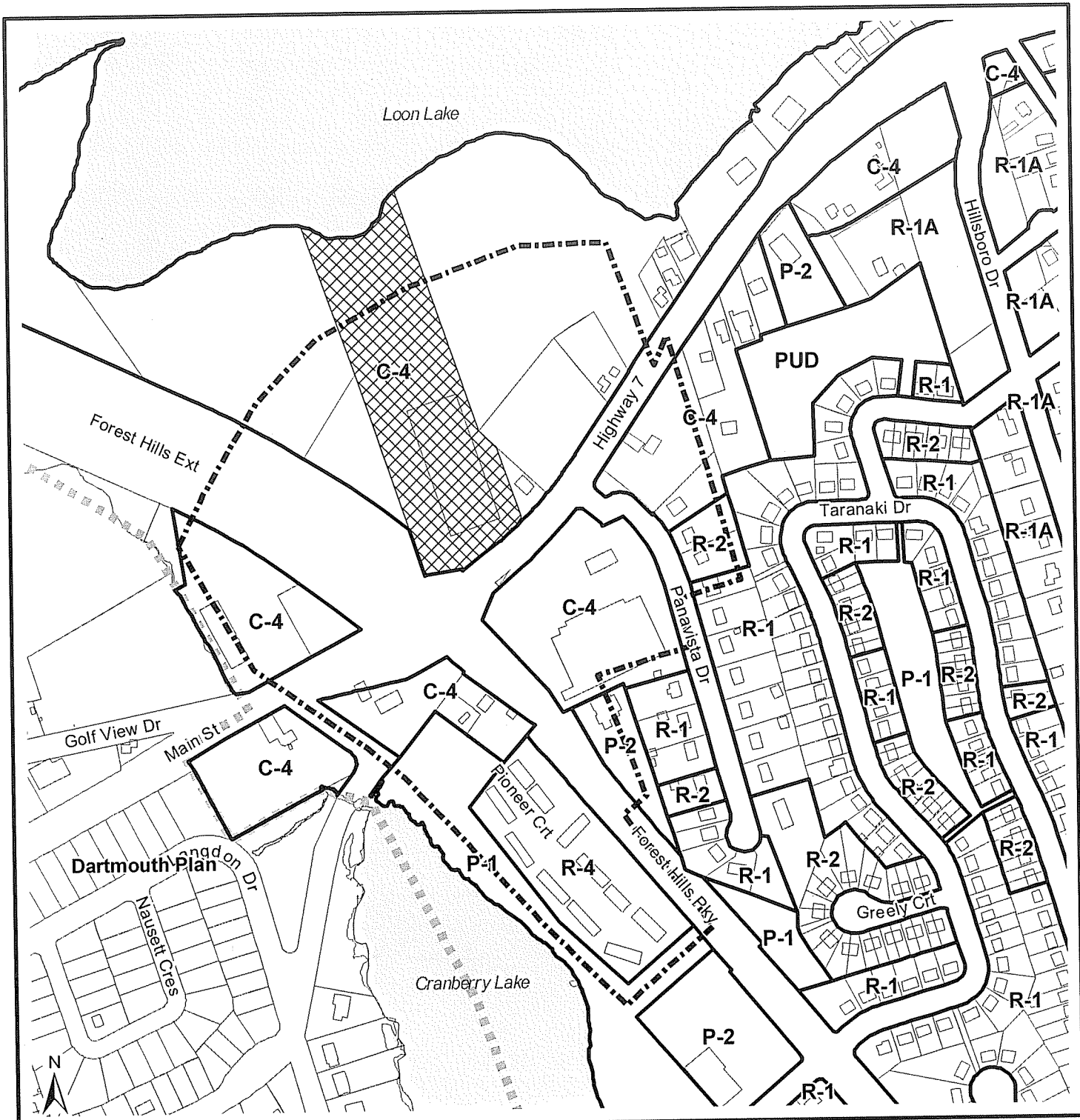
- HC Highway Commercial
- UR Urban Residential

HALIFAX
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 COMMUNITY DEVELOPMENT
 PLANNING SERVICES





This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Cole Harbour/Westphal Plan Area.

HRM does not guarantee the accuracy of any representation on this plan.



Map 2 - Zoning and Location

613 Main Street

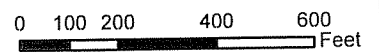
-  Subject Property
-  Plan Area Boundary

Cole Harbour/Westphal Plan Area

Zoning

- R-1A Single Unit Dwelling
- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-4 Multiple Unit Dwelling
- C-4 Highway Commercial
- P-1 Open Space
- P-2 Community Facility
- PUD Plan Unit Development

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Cole Harbour/Westphal Plan Area.

HRM does not guarantee the accuracy of any representation on this plan.

Attachment A: Discharging Agreement (Sandtrap Amusements)

THIS DISCHARGING AGREEMENT made this day of , 2010,

BETWEEN:

MADISON REALTY LIMITED,
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 613 Main Street, Westphal, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Municipality entered into a Development Agreement with Realcorp Properties Limited to allow for location and operation of a lounge on the Lands which was registered at Registry of Deeds in Halifax as Document Number 2183, in Book 5517, at Page 781 (hereinafter called the "Existing Agreement");

AND WHEREAS the Municipality entered into an amendment to the Existing Agreement with the Developer which was registered at the Registry of Deeds in Halifax as Document Number 625 in Book 6168, at Pages 471-478 (hereinafter called the "Amending Agreement");

AND WHEREAS the Developer has requested that the Existing and Amending Agreements be discharged;

AND WHEREAS, pursuant to the procedures and requirements contained in the *Halifax Regional Municipality Charter*, the Harbour East Community Council of the Municipality approved this request by resolution at a meeting held on [INSERT - date], referenced as Municipal Case Number 16032;

WITNESS that it is agreed that the Lands is hereby discharged from the Agreement.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 2010.

SIGNED, SEALED AND DELIVERED in
the presence of:

=====

**SEALED, DELIVERED AND
ATTESTED** to by the proper signing
officers of Halifax Regional Municipality,
duly authorized in that behalf, in the
presence of:

MADISON REALTY LIMITED

Per: _____

Per: _____
=====

**HALIFAX REGIONAL
MUNICIPALITY**

Per: _____

Mayor

Per: _____

Municipal Clerk

Attachment B: Discharging Agreement (Beazley's Bowling)

THIS DISCHARGING AGREEMENT made this day of , 2010,

BETWEEN:

MADISON REALTY LIMITED,
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 613 Main Street, Westphal, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Municipality entered into a Development Agreement with Realcorp Properties Limited to allow for location and operation of a lounge on the Lands which was registered at Registry of Deeds in Halifax as Document Number 17586, in Book 5561, at Page 422 (hereinafter called the "Existing Agreement");

AND WHEREAS the Municipality entered into an amendment to the Existing Agreement with the Developer which was registered at the Registry of Deeds in Halifax as Document Number 43985 in Book 5640, at Page 980 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Municipality entered into a second amendment to the Existing Agreement with the Developer which was registered at the Registry of Deeds in Halifax as Document Number 88055778 (hereinafter called the "Second Amending Agreement");

AND WHEREAS the Developer has requested that the Existing and all Amending Agreements be discharged;

AND WHEREAS, pursuant to the procedures and requirements contained in the *Halifax Regional Municipality Charter*, the Harbour East Community Council of the Municipality approved this request by resolution at a meeting held on [INSERT - date], referenced as Municipal Case Number 16032;

WITNESS that it is agreed that the Lands is hereby discharged from the Agreement.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 2010.

SIGNED, SEALED AND DELIVERED in
the presence of:

=====

**SEALED, DELIVERED AND
ATTESTED** to by the proper signing
officers of Halifax Regional Municipality,
duly authorized in that behalf, in the
presence of:

MADISON REALTY LIMITED

Per: _____

Per: _____
=====

**HALIFAX REGIONAL
MUNICIPALITY**

Per: _____
Mayor

Per: _____
Municipal Clerk

Attachment C: Discharging Agreement (Dooley's Loon Lake)

THIS DISCHARGING AGREEMENT made this day of , 2010,

BETWEEN:

MADISON REALTY LIMITED,
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 613 Main Street, Westphal, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Municipality entered into a Development Agreement with Madison Realty Limited to allow for location and operation of a lounge on the Lands which was registered at Registry of Deeds in Halifax as Document Number 624, in Book 6168, at Pages 463 to 470 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested that the Existing Agreement be discharged;

AND WHEREAS, pursuant to the procedures and requirements contained in the *Halifax Regional Municipality Charter*, the Harbour East Community Council of the Municipality approved this request by resolution at a meeting held on [INSERT - date], referenced as Municipal Case Number 16032;

WITNESS that it is agreed that the Lands is hereby discharged from the Agreement.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 2010.

SIGNED, SEALED AND DELIVERED in
the presence of:

=====

MADISON REALTY LIMITED

Per: _____

Per: _____
=====

SEALED, DELIVERED AND
ATTESTED to by the proper signing
officers of Halifax Regional Municipality,
duly authorized in that behalf, in the
presence of:

**HALIFAX REGIONAL
MUNICIPALITY**

Per: _____

Mayor

Per: _____

Municipal Clerk